

Serial No. 09/995,688
Examiner: ILAN, Ruth
Art Unit 3616

Page 5 of 7

REMARKS

By this amendment, claims 35, 38, 39, 42, 44, 45, 48 and 50 are cancelled. Claims 32, 40 and 46 have been amended. Claims 52, 53 and 54 have been added. No new matter has been added. Claims 1-31 were previously cancelled. Accordingly, claims 32-34, 36, 37, 40, 41, 43, 46, 47, 49, 51, 52, 53 and 54 are now pending in the application. Reconsideration and allowance of all of the claims are respectfully requested in view of the foregoing amendments and the following remarks.

Regarding Office Action Paragraph 2 – Objections to drawings

The drawings are objected to by the Examiner under 37 CFR 1.83(a) for failing to disclose the claimed subject matter. For economic efficiency, claims 35, 42 and 48 related to rigid hydraulic hoses have been cancelled and claims 38, 44 and 50 related to the caliper connection to the frame have also been cancelled (it was less expensive for applicants to delete these claims rather than amend the drawings). It is believed these cancellations overcome the Examiner's objections.

Regarding Office Action Paragraph 3 – Claim objection

Examiner has objected to claim 39 because a word was misspelled. Applicants have cancelled claim 39 as the limitations thereof are now being included in amended claim 32. This objection is now moot.

Regarding Office Action Paragraphs 4 & 5 – 35 U.S.C. 112 (1st para.)

Examiner has rejected claims 39-45 under 35 USC 112, first paragraph, as failing to comply with the written description requirement. Claims 39, 42, 44 and 35 have been cancelled. Claim 40 has been amended. Claims 40, 41 and 43 depend directly or indirectly from independent claim 32. Reconsideration and allowance of claims 40, 41 and 43 is respectfully requested. The rejection is moot in view of these amendments.

Regarding Office Action Paragraphs 6-8 – 35 U.S.C. 112 (2nd para.)

Examiner has rejected claims 39-45 under 35 USC 112, second paragraph, as being indefinite. Applicants have cancelled claims 39, 42, 44 and 45. Claim 40 has been amended. Claims 40, 41 and 43 depend directly or indirectly from independent claim 32. Reconsideration and allowance of claims 40, 41 and 43 is respectfully requested. The rejection is moot in view of these amendments.

Regarding Office Action Paragraphs 9, 10 & 11 – 35 U.S.C. 103

Examiner has rejected claims 32-38 under 35 USC 103(a), as being unpatentable over Robison et al (US Pat. No. 6,491,126) in view of Yousmans (US Pat. No. 4,081,049) or Schmid (US Pat. No. 3,439,786) and Takimoto (US Pat. No. 4,667,760). Examiner further has rejected claims 39-50 under 35 U.S.C. 103(a) as being unpatentable over Robison in view of Yousmans or Schmid and further in view of Takimoto (US Pat. No. 4,667,760). These rejections are respectfully traversed.

Serial No. 08/895,666
Examiner: ILAN, Ruth
Art Unit 3816

Page 6 of 7

Amended claim 32 recites (*inter alia*) that the rear disk brake is uncovered and associated with the rear drive shaft between the engine and the rear wheel axle. Neither Robison nor Yousmans or Schmid disclose or suggest an uncovered rear brake disk associated with the rear drive shaft between the engine and the rear wheel axle.

Examiner stated "...'associated' is a very broad term...". Applicants agree. The use of this term was intentional. In order to address the Examiner's concerns Applicants added the limitation the rear disk brake must be disposed between the engine and the rear axle. In this manner Applicants cover the embodiment where the rear brake disk is connected directly or indirectly to the rear drive shaft.

Robison, which is specifically directed to a progressive differential, teaches a rear brake disk on the rear wheel axle. It is clearly not between the engine and the rear axle as is currently required by amended claim 32, and there is no teaching or suggestion to locate it there.

Admittedly, Takimoto does teach a rear brake disk connected to rear drive shaft 45, and thus a rear disk brake associated with the rear drive shaft disposed between the engine and the rear wheel axle. However, the rear brake disk of Takimoto is covered or at least partially covered. Applicants have further amended claim 32 to add the limitation that the rear disk brake is uncovered. This limitation is not taught or suggested by Takimoto as the enclosure 51 which covers the brake disk thereof is part of the drive shaft housing 48. The housing is a structure used to support the mechanical load of the rear drive train of the vehicle and the enclosure specifically connects the forward tubular part 48 from the engine to the final drive casing 59. Were the disk brake to be uncovered there would be no mechanical connection between the tubular part and the final drive casing yielding an unacceptable weakening of the rear drive train of the vehicle. Thus the modification of the brake system of Takimoto to have an uncovered disk brake is impossible.

Yousmans and Schmid do not overcome the deficiencies of Robison and Takimoto with respect to an uncovered rear brake disk associated with the rear drive shaft disposed between the engine and the rear wheel axle. Therefore any combination of the four references (whether proper or not, and expressly reserving the right to argue thereagainst in the future) cannot render present claim 32 obvious as they do not recite each and every element of the claim.

Applicants therefore believe the present amendment overcomes the Examiner's rejections.

Claims 33, 34, 36, 37, 40, 41, 43, 46, 47, 49, 51-54 depend, directly or indirectly, from claim 32 and are believed to be allowable for the reasons given above in respect of claim 32, and for the limitations found therein.

Serial No. 09/095,068
Examiner: ILAN, Ruth
Art Unit 3618

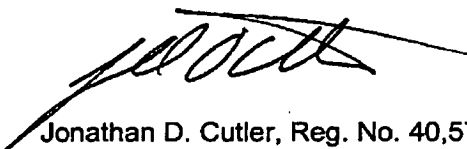
Page 7 of 7

Conclusion

In view of the above amendments and remarks, the Applicant respectfully submits that all of the currently pending claims are allowable, and that the entire application is in condition for allowance.

Should the Examiner believe that anything further is desirable to place the application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



Jonathan D. Cutler, Reg. No. 40,576
Attorney for the Applicant
Tel: (514) 732-7050
Fax: (514) 732-7058